

THE WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1074

IN THE MATTER OF:

Served July 24, 1970

Application of D. C. Transit  
System, Inc., for Authority  
to Increase Fares

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Application No. 613  
  
Docket No. 216

The Black United Front has filed another application for reconsideration of Order No. 1052 -- its fourth to date. It seems to us that at some point, a party must be considered to have exhausted his right to seek reconsideration of our orders. We have serious question whether the filing of repeated applications, each raising different points, is proper. Nonetheless, we will not reach that issue in considering this application. Rather, we will turn to the points raised and discuss them in turn.

Applicant first avers that we did not take into account that Transit made a profit in May of 1970. In this contention, applicant is in error. The company did not operate at a profit in May of 1970. Its monthly report did show a net operating income but it was insufficient to cover the company's interest expense during the month. Hence, its operations in that month showed a net loss. Applicant apparently was relying on press reports which stated the facts erroneously.

The second point refers to certain testimony before a Congressional committee by the President of D. C. Transit concerning the value of the company and its real estate. Applicant makes no effort to specify how this testimony bears upon any issue decided by the Commission. We see no way in which the testimony referred to leads to any error in our disposition of the case in Order No. 1052.

Next, the application alleges that the Commission failed to anticipate community protests of the kind which have followed the issuance of Order No. 1052. We were, of course, fully aware, in issuing that order, that it would receive an unpopular welcome in the community. We have repeatedly made clear our own displeasure at being required to take such action and have sought to achieve changes in the law which would eliminate the necessity therefor. Nonetheless, we felt that, despite the anticipated reaction, it was incumbent upon us to take the action we did so that the community could be assured of this vital transportation service. The disruption to the community which loss of the service would entail, it seems to us, would be far greater than that caused by our rate order.

Next, the application alleges that we failed to investigate fully the effects of the fare increase. It is contended that this is shown by our use of a .32% resistance factor and by our reference in Order Nos. 1052 and 1057 to other Commission orders. The use of a .32% resistance factor is fully justified by the record in this proceeding. Applicant seems to be suggesting that the resistance in fact will be higher. If this is the case, of course, a greater fare increase would be necessary. This seems somewhat inconsistent with applicant's general position. In any event, we rely on our prior statements concerning this resistance factor, and upon the facts developed in the record, as justifying our use of that factor. As for our reference to discussions in other orders, those references do not indicate that we did not actively consider the subjects discussed in issuing Order No. 1052. All of this subject matter was discussed in the record of this proceeding and was thoroughly considered and discussed by the Commissioners in working on the preparation of Order No. 1052. Our reference to the other orders was simply the result of our conclusion that the facts developed by our present investigation were amply covered by the kind of discussions we had had occasion to set forth earlier. Rather than paraphrase those earlier discussions, we simply referred to them.

Next, applicant alleges that the company's accounts do not accurately reflect the funds received by Transit from the U. S. Department of Transportation in connection with the so-called "Capital Flyer" project. Applicant again does not specify just what the alleged inaccuracy is. In any event, the staff engaged in a thorough and searching audit of the company's books in connection with its presentation in this proceeding. That review

demonstrates that the funds in question are fully and accurately reflected in the exhibits in this case.

Applicant then alleges that we failed to examine certain alleged financial irregularities of the company, including supposed violations of the Clayton Act. It is also stated that we have failed to look beyond the financial reports filed by the company. Again, there is no specification of the supposed irregularities other than Clayton Act violations. This allegation was discussed in the hearing and we were informed by staff counsel that the staff had thoroughly investigated the matter and did not believe there was any basis for Commission action. As to our investigation of the company's finances, we again point out that the staff engaged in a thorough audit in connection with its preparation for the hearing in this proceeding.<sup>1/</sup> It is difficult to comment specifically when applicant does not state precisely what it has in mind. Nonetheless, we are sure that our staff has thoroughly reviewed the company's financial operations and that any pertinent aspect of those operations has been brought to our attention and considered by us.

Finally, it is alleged that we erred in allowing an arrearage of \$2 million in the company's pension fund to develop. It is not stated, nor do we see, how this bears upon our action in the rate case. In any event, according to our knowledge of the situation, the arrearage developed because of the severe financial difficulties being faced by the company due to the inadequate level of its fares. It was precisely to avoid the recurrence of this kind of situation that we took the action set out in Order No. 1052. We certainly see no basis for reconsidering that action on the basis of this kind of allegation.

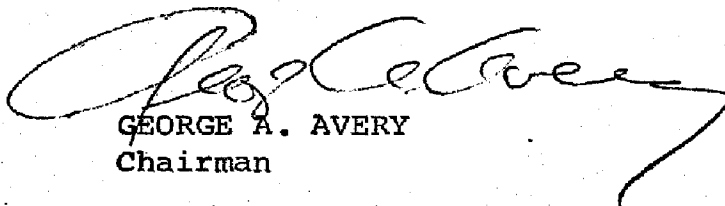
In sum, this latest application for reconsideration appears to be a hodgepodge of unrelated and insubstantial allegations concerning Order No. 1052. We see no basis in the application for reconsidering that order.

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<sup>1/</sup> It should be noted that a three-man Commission auditing staff spends a great majority of its time in a thorough and continuing review of Transit's books and records.

THEREFORE, IT IS ORDERED that the application for reconsideration of Order No. 1052 filed by the Black United Front on July 24, 1970 be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script, appearing to read "George A. Avery", is written over the typed name and title.

GEORGE A. AVERY  
Chairman